

RM-9196

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Warren, Adrian RACHELS and Nancy Lee RACHELS

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FCC MAIL ROOM

**3224 Taragrove Drive
Tampa, Florida
33618-2562**

**Telephone
813-961-3441**

Wednesday, November 26th, 1997

Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

RE: ARRL's Proposed Changes To Morse Code Waiver Rules

Gentlemen:

I wish to file the attached comment/objection to the Petition filed by the American Radio Relay League's on September 23rd, 1997, wherein they request a change to Morse Code waiver rules in the Amateur Radio Service. The Morse Code waiver rules are contained in Part 97.

I regret that I cannot supply a rulemaking number (RM) to the comment/objection because the enclosed article states a RM number has not been assigned. A copy of the article I base my comments upon is attached to this letter.

There are six(6) original signed comments/objection to the ARRL's filed Petition.

With kind regards, I

Thank you,

Nancy Lee Rachels

Nancy Lee Rachels

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fiscated by police under Florida's "scanner" law earlier this year. Osborn was involved in a minor accident last May and subsequently cited by police in Davie, Florida, allegedly for breaking state law by having radios in his car capable of receiving police frequencies. Although the law specifically exempts hams, Davie police impounded Osborn's equipment anyway because he could not produce his ham ticket—lost during a recent move. Even after Osborn showed Davie police a copy of his license, authorities refused to drop the charges or to return his radios. Osborn later learned that police might have tampered with his equipment, possibly damaging it and voiding warranties.

Alexander M. Kaplan, K4QBU, of Boca Raton—an ARRL Volunteer Counsel—represented Osborn. John Hennessee, N1KB, of the ARRL Regulatory Information Branch, supplied information on federal preemption.

Broward County Court Judge J. Steven Shutter dismissed the case dismissed in August. Shutter said the state law does not require hams to have their licenses in their possession, as local police had asserted. He also cited federal pre-emption of prosecution of hams under state and local laws that make it illegal to possess scanning radios capable of receiving public safety or emergency frequencies. Florida's laws ban such scanners in vehicles and in retail stores, but not in homes.

Shutter ordered Davie police to return Osborn's radio equipment and to provide an affidavit specifying "who, what, when, where and how the radios were examined and what was done to them." Osborn has since recovered his radios.

ARRL SEEKS CHANGES TO CW WAIVER RULES

The ARRL has asked the FCC to change the way Morse code exam exemptions for severely handicapped applicants are handled. The League wants to change the procedural requirements in Part 97 that must be met, prior to granting examination credit.

Under the League's proposed changes, a candidate at least would have to *attempt* the CW test—with any and all necessary accommodations—before being granted an exam waiver based on a physician's certification. Also, Volunteer Examiner Coordinators (VECs) would be entitled to request medical information pertinent to an applicant's handicap from the certifying physician. VECs also would be required to have this information on file before the application is forwarded to the FCC for processing.

In its petition filed September 23, the League said the two "rather minor changes" are needed to restrict the waiver process to use by severely handicapped individuals "for whom the process was intended in the first place and who deserve the substantive accommodation." The League also said the changes would "stem abuses" of the waiver system without putting unreasonable burdens on examinees.

FCC SEQUENTIAL CALL SIGN UPDATE

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0	AB000H	K10KE	++	KC0CAA
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2	AB2EH	KG2MP	++	KC2CLQ
3	AA3QI	KE3AJ	N3TXI	KB3BVI
4	AF4FS	KD4B	++	KF4UEF
5	AC5NX	KM5M	++	KD5CIG
6	AD6DF	KQ6RZ	++	KF6NMB
7	AB7WM	KK7LS	++	KC7ZHD
8	AB8BG	KD8DU	++	KC8IOH
9	AA9UY	KG9LK	++	KB9RLN
N Mariana Island	NH0B	AH0AY	KH0GT	WH0ABI
Guam	++	AH2DE	KH2SL	WH2ANV
Hawaii	AH1V	AH6PD	KH7GU	WH6DEI
American Samoa	AH8P	AH8AH	KH8DK	WH8BF
Alaska	AL0F	AL7QU	KL0KK	WL7C
Virgin Islands	++	KP2CM	NP2JT	WP2AIJ
Puerto Rico	NP3O	KP3BC	NP3RE	WP4NMM

++ All call signs in this group have been issued in this district.

The CW waiver system has been in effect for seven years. The League says that experience has shown that many applicants without severe handicaps "have abused the process" by obtaining physicians' certifications of inability to pass the telegraphy examination. At present, 8% of those applying through the ARRL-VEC have requested a medical exemption from the higher-speed code requirement. Another large VEC reports similar experience.

FCC rules requires volunteer examiners

to exercise broad latitude in administering CW exams to accommodate handicapped applicants. Instead, the League observed in its filing, there is "a tendency for applicants to seek exemptions instead" of accommodations.

As of press time, this petition had not been given a rulemaking (RM) number.

FCC ADMINISTRATIVE LAW JUDGE REAFFIRMS KV4FZ DECISION

An FCC administrative law judge has reaffirmed his decision to not renew the operator and station licenses of Herbert L. Schoenbohm, KV4FZ, of Kingshill, Virgin Islands, but the saga continues. Early last year, FCC Administrative Law Judge Edward Luton determined the Commission should not renew Schoenbohm's ham ticket, but Schoenbohm filed exceptions. The FCC remanded the case to Luton. His supplemental initial decision September 30 contained additional findings of fact and reaffirmed his earlier decision.

Schoenbohm's attorney said he planned to file exceptions to the judge's most recent decision. If that is unsuccessful, he still has a judicial appeal (US Circuit Court of Appeals, District of Columbia) available to him. In the meantime, Schoenbohm may continue to operate.

In late 1992, Schoenbohm, now 57, was found guilty in US District Court of using a "counterfeit access device" to make long-distance telephone calls. While his initial conviction did not specifically involve breaking FCC regulations, Schoenbohm eventually ran directly afoul of the Commission, which said his conviction "is relevant to evaluating the likelihood that he will comply" with the FCC's Amateur Radio rules.

Early 1994, the FCC designated his application to renew his ham radio license for a hearing, but extended the expiration date of the license until the matter could be settled.

Luton concluded after the hearing that

ROBERT M. MORRIS, W2LV, SK

Inventor, researcher and radio pioneer Bob Morris, W2LV, of Sparta, New Jersey, died October 15. He was 95. Morris was first licensed in 1922 as 2CQZ. He became 2LV (later W2LV) in the late 1940s. Early in his amateur career, Morris' 2CQZ (running a spark gap transmitter) was among the stations heard in Great Britain and in Europe during the ARRL's Third Transatlantic Tests (see QST, Feb. 1923). He later worked with Edwin H. Armstrong, the man credited with inventing FM.

A noted broadcasting historian and storyteller, Morris appeared in Ken Burns' PBS documentary *Empire of the Air—the Men who Made Radio*. He was a member of the ARRL for 75 years, a founding member of the Antique Wireless Association and of the New Jersey DX Association, and a member of the Sussex County Amateur Radio Club.

Survivors include his wife, Dorothy, a son and daughter, and several grandchildren and great-grandchildren. The family has asked that donations in Bob Morris' memory be made to the Antique Wireless Association, c/o Dexter Feeley, Treasurer, c/o Briar Cl, Rochester, NY 14618.—thanks to Don McKay, W2TTP

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)
)
Amendments of Section 97) RM -
as it relates to proposed)
changes in the way Morse)
Code exemptions for severely)
handicapped applicants are)
handled in the Amateur)
Radio Service Rule(s).)

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COMMENT/OBJECTION TO THE AMERICAN RADIO RELAY
LEAGUES'S PETITION OF SEPTEMBER 23RD, 1997
FOR CHANGES IN THE MORSE CODE EXEMPTION
PROCEDURES FOR SEVERELY HANDICAPPED
APPLICANTS IN THE AMATEUR RADIO SERVICE

I am NANCY LEE RACHELS and reside at 3224 Taragrove Drive,
Tampa, Florida 33618-2562, Telephone 813-961-3441. I currently
hold Technician License KF4USJ in the Amateur Radio Service.

I object to the American Radio Relay Leagues's September 23rd,
1997, PETITION FOR CHANGES IN THE MORSE CODE EXEMPTION PROCEDURES
FOR SEVERELY HANDICAPPED APPLICANTS IN THE AMATEUR RADIO SERVICE
for the following reasons:

1. The proposed modifications would require a candidate to
attempt a Morse Code test with any and all necessary accommodations
prior to being granted a waiver. Why require a failure of a test
under special accommodations before granting exemption, it just
does not seem to logically follow. If a candidate has a signed
exemption from a certifying physician, why should the candidate
make any effort to pass a test. The best that could be hoped for
is a half hearted attempt to satisfy the test requirement because
the requirement will be satisfied with the physician's

certification. I teach full-time in a Community College; therefore, I believe my experience gives some insight into the testing attitude of individuals.

2. The proposed modification would permit the Volunteer Examiner Coordinators to request medical information pertinent to an applicant's handicap from the certifying physician and to have this information on file before the application is forwarded to the FCC for processing. By implication the ARRL is requesting the right and the requirement of the VEC to evaluate the certifying physician diagnosis and conclusions. What if the VEC concludes the certifying physician is wrong or incorrect based upon the physician's medical statement, who would be correct the certifying physician or the VEC. Since the certifying physician is supplying information to the VEC, logic says if the VEC is in disagreement the application will be held up and/or possibility not processed. The VEC is not the FCC and does not have any reason to know anything more than what is currently contained in the certifying physician's statement. If the FCC wishes additional information this right of inquiry and determination is granted to the FCC by the applicant.

3. The proposed modification would require the Volunteer Examiner Coordinator to have information in support from the certifying physician on file before the application is processed. In addition to the reasons expressed in Paragraph 2 above, there is the question of the security, both internally and externally, of the applicant's medical information. Also raised is the question of just how much information would have to be provided the VEC by

the certifying physician. Both of these questions are open ended. If the FCC wishes to know the extent and basis of the medical exemption, then it not the VEC should make the enquiry, that is from medical personnel at the FCC to the certifying physician when there is a reasonable basis to believe the certification has been improperly granted.

WHEREFORE, based upon the reasons stated, it is requested that the American Radio Relay League's September 23rd, 1997, **PETITION FOR CHANGES IN THE MORSE CODE EXEMPTION PROCEDURES FOR SEVERELY HANDICAPPED APPLICANTS IN THE AMATEUR RADIO SERVICE** be denied in total. Attached is a copy of the article upon which I base my knowledge of the contents of the Petition.

Dated: Wednesday, November 26th, 1997.



NANCY LEE RACHELS, KF4USJ
3224 Taragrove Drive
Tampa, Florida 33618-2562
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5	AC5NX	KM5M	++	KD5CIQ
6	AD6DF	KQ6RZ	++	KF6NMB
7	AB7WM	KK7MS	++	KC7ZHD
8	AB8BG	KJ8DU	++	KC8IOH
9	AA9UY	KG9LK	++	KB9RLN
N Mariana Island	NH0B	AH0AY	KH0GT	WH0ABI
Guam	++	AH2DE	KH2SL	WH2ANV
Hawaii	AH4V	AH6PD	KH7GU	WH6DEI
American Samoa	AH8P	AH8AH	KH8DK	WH8ABF
Alaska	AL0F	AL7QU	KL0KK	WL7CUM
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